THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.27145 of 1996

Dated: 08.02.2007

Between:

K.U.B.N.V.Prasad S/o Satyanarayana Murthy
and others.

..... PETITIONERS

AND

State of Andhra Pradesh, rep., by its Principal
Secretary to Government Education Department,
Secretariat, Saifabad, Hyderabad and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.27145 of 1996

ORDER:

The proceedings of the second respondent, dated 24.08.1996, whereby the third respondent was informed that the request of eight petitioners as well as the management for approval of their appointment with retrospective effect from the date of their initial appointment on 03.01.1994 was rejected, is impugned in this writ petition.

The petitioners were all selected, pursuant to a duly constituted selection committee as required under G.O.Ms.No.12 dated 10.01.1992, on 17.12.1993 and pursuant thereto, the third respondent appointed them as junior lecturers on 03.01.1994. The third respondent submitted

proposals to the second respondent on 15.02.1994 seeking ratification of the selections made by it to enable appointment of the petitioners and to send annual salary statements for them for admission to grant-in-aid. While the petitioners were appointed, even prior to the date on which the proposals were submitted on 15.02.1994, the fact that they had been appointed was not spelt out in the proposal dated 15.02.1994.

The second respondent accorded approval for the selection of petitioners as junior lecturers on 07.03.1996 and, thereafter, the third respondent issued orders appointing them as junior lecturers in the aided vacancies on 08.03.1996. The petitioners were redesignated as lecturers vide G.O.Ms.No.264 dated 22.10.1999.

The short question which arises for consideration in this writ petition is, whether the petitioners were entitled to be appointed in the aided vacancy from 03.01.1994, when they were issued appointment orders by the third respondent or only from 08.03.1996 when the third respondent issued appointment orders afresh, based on the approval granted by the second respondent on 07.03.1996.

Sri A. Venkataramana, learned counsel for the petitioners, would submit that the inordinate delay on the part of the second respondent in granting approval has resulted in the petitioners' being deprived of salary in the aided post for a period in excess of two years and for the benefit of seniority. Learned counsel would refer to the Andhra Pradesh Educational Institutions (Establish, Recognition, Administration, Control and Institution of Higher Education) Rules, 1987 (for short "the Rules"), notified in G.O.Ms.No.29 dated 05.02.1987.

Rule 2(b) of the Rules defines Educational Agency to mean the education committee/Society/Trust/Association/Sponsoring/running the educational institution both Government or private, unless otherwise specifically mentioned. Rule 2(d) of the Rules defines competent authority to mean the authority who is competent to grant

permission/recognition/affiliation, as the case may be, to the educational institutions. Rule 7(1) relates to the staff pattern and sub-rule (2) thereof relates to appointment of teaching and non-teaching staff. Rule 7(2) (b) of the Rules provides that appointment of teaching staff in private educational institutions shall be by way of recruitment through the Andhra Pradesh College Service Commission or as per the procedure prescribed by the Government from time to time. Rule 7(2)(c) of the Rules provides that the appointment of non-teaching staff in private educational institutions shall be by the Selection Committee from among the candidates sponsored by the Employment Exchange or drawn through newspaper advertisements in case the Employment Exchange could not sponsor suitable candidates. It specifies the composition of the selection committee and its quorum. Rule 7(3) prescribes the competent authority for approval of appointments within a period of one month from the date of making appointments by applying through Form IV. Sub-rule (4) of Rule 7 of the Rules relates to payment of salaries and, thereunder, the educational agency of any private institution shall pay salaries to its staff as per the Government scales of pay and by following such procedure as may be prescribed by the Government from time to time in this regard.

While Sri A. Venkataramana, learned counsel for the petitioners, would submit that on a candidate being selected by a duly constituted selection committee, the power to make appointments lies with the management or institution and that the competent authority is only required to approve/ratify such appointments; learned Government Pleader for Higher Education would submit that pursuant to a candidate's selection by a duly constituted selection committee, it is only the list of selected candidates which is required to be forwarded to the competent authority, and it is only after approval of the competent authority, would the candidate be entitled to be appointed to an aided

vacancy.

Learned Government Pleader would further submit that, since the primary liability for payment of salaries of staff lies on the management of the institution and the Government merely provides financial assistance in the form of grant-in-aid, it is only from the date the selections/appointments are approved by the competent authority and from the date which the competent authority stipulates as the date of appointment, would the selected candidates be entitled to be appointed to an aided vacancy, and consequently be entitled to be extended grant-in-aid. Learned Government Pleader would submit that till the selections are approved by the competent authority, no right accrues in favour of the selected candidate to claim appointment to a grant-in-aid post.

A reading of sub-rule (3) of Rule 7 indicates that, while the list of selected candidates is required to be approved by the competent authority, the power to make appointments lies with the educational agency. Sub-rule (3), in fact, requires the educational agency to obtain approval from the competent authority within one month from the date of making appointments. Thus, the educational agency is required to submit proposals and obtain approval of the competent authority for appointment of the selected candidates within one month from the date these candidates were appointed by the management of the institution/educational agency. The power to make appointments is with the educational agency. The effect of grant of approval by the competent authority is that these appointments are entitled for the benefit of grant-in-aid. Further, under Sub-rule (4) of Rule 7 of the Rules,
the liability to pay salaries to the staff on par with government scales of pay lies with the educational agency. Since the petitioners were appointed as junior lecturers on 03.01.1994, they are entitled to be paid salaries as per Government scales of pay. The liability to pay the

salaries is not that of respondents 1 and 2, but that of the third respondent. It is not in dispute that the petitioners herein have been given the pay scales as applicable to the lecturers in aided posts, from the date on which the approval has been accorded by the second respondent. I find justification in submission of Sri. A. Venkataramana, learned counsel for the petitioners, that there has been inordinate delay on the part of the second respondent in granting approval. Sub-rule (3) of Rule 7 of the Rules necessitates the competent authority, ordinarily, to grant approval within a period of one month from the date on which a proposal is submitted in Form IV. In the present case, approval was granted more than two years after the proposals were submitted. There is no explanation in the counter-affidavit nor has any reasons been assigned for the inordinate delay in granting approval after two years. The consequent hardship, which the petitioners faced, not only in terms of monetary benefits,

but also in terms of loss of seniority, on account of the inordinate delay on the part of the competent authorities, necessitates their bestowing attention on these aspects and to dispose of the proposals with promptitude. The statutory rules do not provide for any penal consequences for delay in granting the approval. Since the primary liability for payment of salaries is on the educational agency, and not that of the Government, the petitioners can only claim salaries on par with government pay scales from the date of their appointment on 03.01.1994 from the third respondent. Since approval was granted on 07.03.1996 and the petitioners are entitled to be appointed to the aided post only thereafter and not prior thereto, the relief sought in this writ petition cannot be granted in its entirety.

The writ petition is allowed to the extent that the third respondent is directed to pay the petitioners salaries on par with government pay scales from 03.01.1994 till 08.03.1996. Insofar as the writ petition is filed

seeking relief against respondents 1 and 2, it is dismissed. However, in the circumstances, without costs.

_____

08.02.2007

sh